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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,085	09/09/2003	Lawrence H. Freedlund	P02734	2728
28548	7590	07/18/2005	EXAMINER	
STONEMAN LAW OFFICES, LTD 3113 NORTH 3RD STREET PHOENIX, AZ 85012			CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/659,085

Applicant(s)

FREEDLUND, LAWRENCE H.

Examiner

PAUL T. CHIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Group I, readable on claims 1-14, in the reply filed on June 24, 2005, is acknowledged. The traversal is on the ground(s) that "the claims in each of the species identified by the Examiner, clearly comprise similar elements, and would not place undue burden on the Examiner". This is not found persuasive. Applicant argues that "the claims in each of the species identified by the Examiner, clearly comprise similar elements". The argument is incorrect because the Examiner did not require the election of species as applicant argues. The examiner specifically requires to choose one of the inventions: an apparatus (claims 1-14) and a method (claims 15-20) because the inventions are related as product and process of use. The method claims recite a method of supplying a user, registering a bar-code, providing a reward, tracking the usage of handgrip, and providing advertising indicia. The search for the apparatus does not require the search for the method and searching both the inventions would place undue burden on the Examiner. Therefore, the restriction requirement is proper. **The requirement is still deemed proper and is therefore made FINAL.**

2. Claims 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 24, 2005.

### *Drawings*

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "104 (first face)", "106 (second face)", and 136 (handgrip)". Corrected drawing sheets in compliance with 37 CFR

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1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1,2, and 4, the word "means" is preceded by the word(s) "second means for supporting said first support means" (claim 1, lines 6-7), "said second support means comprises handle means" (claim 1, line 14), "said first support means comprises centering means" (claim 2, lines 1-2), and "said transit means comprises vertical blocking means" (claim 4, lines 1-2) in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Moreover, the exact meaning of the recited phrase "said transit means is located above said vertical blocking means" (claims 5 and 11) is not clearly understood. Applicant

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recites "said transit means" comprises "vertical blocking means" for blocking in claims 4 and 9 and it is confusing as to how "the transit means" is located above "the vertical member". Further, there is no antecedent basis for "said blocking means" in claim 5 (Note that claim 5 depends on claim 1), "said at least one first support", or "said at least one second supporter" (claim 6).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wagenheim (5,797,166).

Wagenheim (5,797,166) discloses a handgrip holding system comprising at least one holder for carrying at least one shopping bag (B) (Fig. 2), having a first support 16 having a substantially horizontal surface means, and transit means 36,38, a second support for support the first support, wherein the second support means comprises a handle 24 and the first support comprises a concave curve (see figs. 1 and 2).

Re claims 2 and 8, figure 1 shows a centering means.

Re claims 3 and 9, figure 1 substantially shows a lower portion of the first support, which has a larger concave curve, has substantially similar radius of curvature as the largest radius of an external perimeter of the holder.

Re claims 4 and 10, figure 1 shows the transit means 38 comprising a substantial vertical portion for blocking the bags from slipping off. Note that figure 1 shows a

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relatively narrow mouth 40 for the hook portion 16 to retain articles more securely (Col 7, lines 17-26).

Re claims 5 and 11, figure 1 shows a transit means 36 located above the blocking member.

Re claims 6 and 14, the first and second support members are coplanar.

8. Claims 1-14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Kosteniuk (5,645,306).

Kosteniuk (5,645,306) discloses a handgrip holding system comprising at least one holder for carrying at least one shopping bag, having a first support 26 having a substantially horizontal surface means, and transit means 24, a second support for support the first support, wherein the second support means comprises a handle 12 and the first support comprises a concave curve (see fig. 1).

Re claims 2 and 8, figure 1 shows a centering means located in the middle of the handle 12.

Re claims 3 and 9, figure 1 substantially shows the radius of curvature of the first support has substantially similar radius of curvature as the largest radius of an external perimeter of the holder.

Re claims 4 and 10, figure 1 shows the transit means comprising a substantial vertical portion (40) for blocking the bags from slipping off.

Re claims 5 and 11, figure 1 shows a transit means 24 located substantially above the blocking member (40).

Re claims 6 and 14, the first and second support members are coplanar.

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**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miceli, Jr. (Des. 356,261) shows a first support, a second support, and a transit support.

Fludd (6,511,114) and Van Davelaar (5,599,052) shows a bag handle and a barcode.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



PAUL T. CHIN  
Examiner  
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